

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

13 UNITED STATES OF AMERICA,) 3:05-cr-00098-HDM
14 Plaintiff,) 3:16-cv-00255-HDM
15 vs.)
16 JOHNATHON ROBERTS,) ORDER
17 Defendant.)

19 Proceedings on defendant's 28 U.S.C. § 2255 petition have been
20 stayed pending the Ninth Circuit's decision in *United States v.*
21 *Begay*, 14-10080. The *Begay* court has under submission whether the
22 residual clause of 18 U.S.C. § 924(c)(3) is unconstitutionally
23 vague in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015).
24 Whether *Johnson* applies to § 924(c)(3) is a threshold question in
25 this case, and the Ninth Circuit's decision in *Begay* will likely
26 answer this question. If *Johnson* does apply, defendant has made a
27 substantial argument that he is entitled to relief under § 2255.
28 Accordingly, so this case will not be unduly delayed once the Ninth

1 Circuit issues its ruling in *Begay*, the government is hereby
2 ordered to file a response to the defendant's petition (ECF No.529
3 & ECF No. 555) no later than January 17, 2017. Defendant shall
4 thereafter have until February 17, 2017, to file a reply. For all
5 other purposes, this action will remain stayed pending the decision
6 in *Begay*, or until further order of the court.

7 IT IS SO ORDERED.

8 DATED: This 18th day of November, 2016.

9 
10 UNITED STATES DISTRICT JUDGE

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28